

Senate Bill 202

By: Senator Wiles of the 37th

AS PASSED

AN ACT

To amend Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated, relating to local government budgets and audits, so as to provide for additional grant certification requirements with respect to subrecipients and units of local government; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated, relating to local government budgets and audits, is amended by striking Code Section 36-81-8.1, relating to grant certification with respect to subrecipients, and inserting in its place a new Code Section 36-81-8.1 to read as follows:

"36-81-8.1.

(a) As used in this Code section, the term:

(1) 'Subrecipient' means an entity that receives a grant of state funds from the Governor's emergency fund or from a special project appropriation through a local government and shall also mean an entity which in turn receives all or any portion of such grant funds from a subrecipient.

(2) 'Unit of local government' means, for purposes of this Code section and notwithstanding paragraph (16) of Code Section 36-81-2, a:

(A) Municipality, county, consolidated government, county school district, independent school district, other political subdivision of the state, any public agency or authority of any of the foregoing, or any combination of any of the foregoing;

(B) Regional development center;

(C) Any public authority created by local Act or local constitutional amendment of the General Assembly; or

(D) Any public authority created by general law which applies to an area of less than the entire state and which requires activation by a county or municipal government.

(b) Each grant of state funds to a recipient unit of local government from the Governor's emergency fund or from a special project appropriation in an amount greater than \$5,000.00 shall be conditioned upon the receipt by the state auditor of a properly completed grant certification form. The form shall be designed by the state auditor and shall be distributed with each covered grant as required by this Code section. The grant certification form shall require the certification by the recipient unit of local government and by the unit of local government auditor that the grant funds were used solely for the express purpose or purposes for which the grant was made. Such form shall be filed with the state auditor in conjunction with the annual audit required under Code Sections 36-81-7, 50-6-6, or any other applicable Code section for each year in which such grant funds are expended or remain unexpended by the unit of local government. A recipient unit of local government which is not otherwise subject to the annual audit requirements specified in this subsection shall file a grant certification form with the state auditor no later than December 31 of each year in which such grant funds are expended or remain unexpended. For grant funds to subrecipients, the certification by the unit of local government auditor required by this subsection may also be made by an in-house or internal auditor of the unit of local government who meets the education requirements contained in subparagraph (a)(3)(A) of Code Section 43-3-6. The cost of performing any audit required by this subsection or paragraph (1) of subsection (d) of this Code section shall be an eligible expense of the grant. However, the amount charged shall not exceed 2 percent of the amount of the grant or \$250.00 per required audit, whichever is less. The unit of local government to whom the grant is made may deduct the cost of any such audit from the funds disbursed to the subrecipient.

(c) Where the grant of state funds is for \$5,000.00 or less, the grant shall require submission to the state auditor of a properly completed grant certification form as required by subsection (b) of this Code section except that only the unit of local government need certify that the grant funds were used solely for the express purpose or purposes for which the grant was made. However, where such grant is to a subrecipient, the grant shall require submission to the unit of local government of a notarized affidavit executed by the executive director, president, chairperson, chief executive officer, or other responsible party representing the subrecipient, by whatever name or title, to whom the grant funds are disbursed. The affidavit shall certify under oath that the funds were used solely for the express purpose or purposes for which the grant was made. Such affidavit shall be submitted annually for each year that grant funds are expended or remain unexpended

according to a schedule established by the unit of local government and shall be made on a form designed by the state auditor and distributed with each covered grant as required by this Code section.

(d)(1) Notwithstanding subsection (b) or (c) of this Code section, the Governor, the Appropriations Committee of the House of Representatives, or the Appropriations Committee of the Senate shall have the right and authority to direct and require any recipient unit of local government to obtain or perform an audit of any grant of state funds from the Governor's emergency fund or from a special project appropriation, regardless of the amount thereof.

(2) Notwithstanding subsection (b) or (c) of this Code section, a recipient unit of local government shall have the right or authority to obtain or perform an audit of any grant of state funds to a subrecipient from the Governor's emergency fund or from a special project appropriation, regardless of the amount thereof.

(e) The failure to comply with the requirements of this Code section shall result in a forfeiture of a state grant and the return to the state of any such grant funds which have been received by the unit of local government. In the case of a state grant awarded to a subrecipient, the subrecipient shall be responsible for the return to the state of any such grant funds if it is determined that the funds were not used for the express purpose or purposes for which the grant was made. A grant recipient or subrecipient shall be ineligible to receive funds from the Governor's emergency fund or from a special project appropriation until all unallowed expenditures are returned to the state, except that a recipient unit of local government shall not be ineligible for such funds where a subrecipient has not used funds it received for the express purpose or purposes for which the grant was made.

(f) No subrecipient shall be considered an agent of the unit of local government or be indemnified or held harmless by the unit of local government for any negligence, misfeasance, or malfeasance of the subrecipient, and a recipient unit of local government shall not be liable for any expenditure of state grant funds by a subrecipient."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.